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FM AMEMBASSY ZAGREB
TO RUEHC/SECSTATE WASHDC IMMEDIATE 8469
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE IMMEDIATE

C O N F I D E N T I A L ZAGREB 000019

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EUR/SCE FOR BALIAN, STINCHCOMB
S/WCI FOR AMBASSADOR WILLIAMSON

E.O. 12958: DECL: 01/11/2018
TAGS: [HR](#) [CROATIA](#) [KAWC](#) [PGOV](#) [WAR](#) [CRIMES](#)
SUBJECT: WAR CRIMES INDICTEE AND MP GLAVAS RELEASED FROM
CUSTODY, FOR NOW

REF: 2007 ZAGREB 372 AND PREVIOUS

Classified By: POLOFF Kirsten Selinger for reasons 1/4 (b) and (d)

11. (C) SUMMARY: War crimes indictee and re-elected MP Branimir Glavas was released from custody on 11 JAN after the opening session of Parliament, following the Zagreb County Court determination that only Parliament can decide the status of his immunity from prosecution and detention after the start of his new mandate. The Chief State Prosecutor has already submitted a request to Parliament's newly re-constituted Commission on Mandates and Immunities to confirm the previous removal of his immunities, which would require a full Parliament vote. It remains unclear when that decision will be made, though we expect Parliament to consider the matter before his trial resumes on 21 JAN. Glavas is currently on trial for his suspected involvement in the torture and murder of Serb civilians in the Osijek region in 1991 (reftels). The case is constantly pushing Croatia into uncharted territory, challenging legal and political experts to determine the proper process; however, Post remains confident that his immunity from prosecution will be stripped again. END SUMMARY.

12. (C) In a remarkably candid meeting with PolOff the day prior, Zagreb County Court Judge Marin Mrcela (who is Head of the Court's Criminal Department and a member of the panel which ruled on his immunity and detention) gave us insight into the Court's decision-making process. The panel of judges determined that Glavas's immunity is the Sabor's political decision and not within the Court's legal jurisdiction. "We are not an interested party in the proceedings," he said. The decision may come as a surprise to observers since many legal scholars believed that the Court would see the Committee's 2006 decision to strip his immunity as still valid. However, others believed that a new mandate would automatically bring renewed immunity. Nevertheless, Mrcela explained that in this situation, the panel of judges would be forced to sign his release until further notice. Post believes that Sabor's Commission on Mandates and Immunities will now need to take up that decision, and then forward it to the full Parliament, which will vote on both immunity from prosecution and from detention.

13. (SBU) The Sabor's Commission on Mandates and Immunities was immediately formed following Sabor's opening session and consists of four representatives from the ruling Croatian Democratic Union (HDZ), three Social Democratic Party (SDP) opposition representatives, Glavas' party deputy, Vladimir Sislagic, and one representative from the ethnic Serb party. Glavas' trial is set to resume in Zagreb on 21 JAN, by which time we expect Parliament to decide on his immunity from detention and prosecution or the trial will be delayed.

14. (C) Another Court decision made 10 JAN denied Glavas' request for temporary release in order to attend Parliament's opening session despite statements from several politicians, including PM Sanader, that they expected Glavas to be

present. The comments prompted a swift reaction from the Croatian Judicial Association and President of the Supreme Court, calling for politicians to respect judicial independence. Mrcela privately justified the decision to deny Glavas' release request, noting the event's purely ceremonial nature, the risk of media manipulation by Glavas and the Court's desire not to appear to have succumbed to political pressure.

15. (C) COMMENT: The re-election of a parliamentarian whose immunities have been stripped is an unprecedented event in itself in Croatia, and the Glavas case has been one that has often left legal experts here scratching their heads. However, the Croatian courts and elected lawmakers are right to approach this methodically, as Glavas will take every opportunity to discredit the system that is putting him on trial. Despite today's developments, Post remains confident that Parliament will strip Glavas of his immunity from prosecution and see this trial to a successful conclusion.
END COMMENT.
BRADTKE